



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,818	02/28/2005	Richard Schaer	F-8388	8344

28107 7590 09/19/2006
JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

EXAMINER

NICHOLSON III, LESLIE AUGUST

ART UNIT	PAPER NUMBER
----------	--------------

3651

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/509,818	Applicant(s) SCHAER ET AL.	
	Examiner Leslie A. Nicholson III	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-9 and 11-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-9 and 11-26 is/are rejected.
- 7) ☒ Claim(s) 5,6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments and Amendments

1. Due to Applicant's amendments, all previous objections to the specification, drawings, and claims are hereby withdrawn.

Due to Applicant's amendments, all previous 35 USC 112 1st and 2nd paragraph rejections are hereby withdrawn.

Applicant's arguments with respect to claims 1,2,5-9,11-26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claims 5,6 are objected to under 37 CFR 1.75(c) as being in improper form because a claim cannot be dependent upon a cancelled claim (claim 3). Accordingly, claims 5,6 not been further treated on the merits.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,2,11,12,13,14,20,21,22,23,25,26 are rejected under 35 U.S.C. 102(b) as being anticipated by Godley USP 4,187,030.

Godley discloses a similar conveying device comprising:

- An essentially cylindrical chamber (14)
- At least one axially extending shaft (16) disposed in said chamber
- Said shaft having a plurality of first conveying elements (22) axially spaced from one another to form a discontinuous web and extending radially from the shaft and being connected with the shaft in each case at a connecting site on the surface of the shaft
- the conveying elements being axially spaced discrete paddles or beaters (C3/L7-12)
- The individual connecting sites being disposed along a helical line at the surface of the shaft (see figures)
- The plurality of first conveying elements forming a first flight extending helically about the surface of the shaft, the first flight divided into at least two axially spaced partial flights at least in axially spaced partial regions of said shaft, each partial flight including a plurality of said axially spaced discrete paddles or beaters (32) (C4/L6-19)
- Further elements (32) which protrude into the first flight, disposed at least in partial region of the first flight, forming at least one further discontinuous web
- the number of further discontinuous webs and, with that, the number of partial flights increasing in the product-conveying direction (C4/L6-19; and note fig.3 having more further elements than fig.4)

- wherein the number of flights in the product-conveying direction increases from one flight up to a maximum of eight flights (fig.1)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16,17,18,19,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godley USP 4,187,030.

Godley does not disclose specific values for the degree division of disposed axially adjacent conveying elements, or the specific angle of rotation. However, one of ordinary skill in the art is expected to routinely experiment with the parameters, especially when the specifics are not disclosed, so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been obvious through routine experimentation and optimization, for one of ordinary skill in the art to have the axially adjacent conveying elements disposed at the shaft offset by 90° to one another or equal to or greater than 180° or 270°, and have the specific angle of rotation equal to or greater than 90°.

7. Claims 7,8,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godley USP 4,187,030 in view of Martin USP 4,362,272.

Godley discloses all the limitations of the claim, but does not expressly disclose the slope of the first flight increasing in the product-conveying direction or regions with an increasing (or greater) slope and regions with a decreasing (or lesser) slope of the first flight follow one another in the product-conveying direction.

Martin teaches the slope of the first flight increasing in the product-conveying direction and regions with an increasing (or greater) slope and regions with a decreasing (or lesser) slope of the first flight follow one another in the product-conveying direction (fig.7) for the purpose of increasing or decreasing the rate of material conveyance due to a change in blade slope (C6/L64-68, C7/L1-3).

At the time of invention it would have been obvious to one having ordinary skill in the art to have the slope of the first flight increasing in the product-conveying direction and regions with an increasing (or greater) slope and regions with a decreasing (or lesser) slope of the first flight follow one another in the product-conveying direction, as taught by Martin, in the device of Godley, for the purpose of increasing or decreasing the rate of material conveyance due to a change in blade slope.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

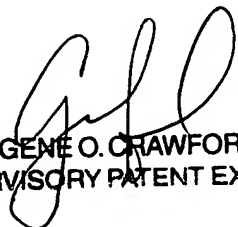
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie A. Nicholson III whose telephone number is 571-272-5487. The examiner can normally be reached on M-F, 8:30 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

L.N.
9/14/2006


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER